

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

ROBBIE EMERY BURKE, as Special
Administratrix of the Estate of Billy Woods,
deceased,

Plaintiff,

v.

MUSKOGEE COUNTY BOARD OF
COUNTY COMMISSIONERS (“Board”),

Defendant,

Case No. CIV-18-108-RAW

ORDER

This matter came on for pretrial conference on September 19, 2019. At the hearing, the court made preliminary rulings on pending motions. The court briefly memorializes those rulings herein. For the reasons stated at the hearing, Plaintiff’s motion to preclude any evidence related to the purported statements and opinions of the unidentified “Muskogee EMT” [Docket No. 174] is granted in part and denied in part.

For the reasons stated at the hearing, the court ruled on the issues listed in the Board’s omnibus motion in limine [Docket No. 171] as follows:

- I. Granted. The investigative report is unreliable in that sufficient safeguards for fairness (such as a hearing with opportunity for cross-examination) were not employed. It invades the province of the jury. Furthermore, the evidentiary standard of “some credible evidence” used in the investigation is insufficient to buttress a constitutional claim. Also, admission would violate Federal Rule of Evidence 403, as its probative value is substantially outweighed by a danger of unfair prejudice, and it would mislead the jury.
- II. Moot with regard to the listed witnesses the Board did not have a fair opportunity to depose. The parties will inform the court in the proposed pretrial order if the Board had an opportunity to depose any of the listed witnesses.
- III. Granted.

- IV. Denied.
- V. Granted in part. The parties will confer and inform the court of any remaining issues.
- VI. Moot.
- VII. Denied.
- VIII. Moot.
- IX. Moot as to calls regarding suicide. Granted as to any other calls.
- X. Granted.
- XI. Moot as to parts A and B. Denied as to part C.
- XII. Moot.
- XIII. Moot.
- XIV. Moot.
- XV. Moot.
- XVI. Moot.
- XVII. Moot.
- XVIII. Moot.
- XIX. Granted in part and denied in part.
- XX. Granted.
- XXI. Denied.
- XXII. Moot.
- XXIII. The court reserved ruling.

The parties will submit to the court a revised proposed pretrial order no later than
October 3, 2019.

IT IS SO ORDERED this 20th day of September, 2019.



THE HONORABLE RONALD A. WHITE
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF OKLAHOMA